

June 30, 2010

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TOWN OF NEW WINDSOR

PLANNING BOARD

JUNE 30, 2010

MEMBERS PRESENT: JERRY ARGENIO, CHAIRMAN
NEIL SCHLESINGER
HENRY VAN LEEUWEN
HOWARD BROWN
DANIEL GALLAGHER

ALTERNATE: HENRY SCHEIBLE
HARRY FERGUSON

ALSO PRESENT: MARK EDSALL, P.E.
PLANNING BOARD ENGINEER

JENNIFER GALLAGHER
BUILDING INSPECTOR

NICOLE JULIAN
PLANNING BOARD SECRETARY

STEVEN GABA, ESQ.
PLANNING BOARD ATTORNEY

REGULAR_MEETING:

MR. ARGENIO: I want to call to order the June 30, 2010 meeting of the Town of New Windsor Planning Board that was rescheduled from Last Wednesday to tonight. Please stand for the Pledge of Allegiance.

June 30, 2010

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(Whereupon, the Pledge of Allegiance was
recited.)

REGULAR_ITEMS:

ORP_VAILS_GATE_CO-LOCATION_(VERIZON)_(10-17)

MR. ARGENIO: First on tonight's agenda ORP Vails Gate Verizon Wireless site plan and special permit antenna on an existing building at the 149 Windsor Highway. This application proposes a co-location of the cellular facilities on the existing self-storage building with an equipment shelter on the site. The plan was reviewed on a concept basis only. Is somebody here to represent this? Please come up, tell us your name and the firm you're with.

MR. ROHDE: Good evening, my name is Clifford Rhode, I'm an attorney with the law firm of Cooper, Erving & Savage out of Albany. We're regional counsel to Verizon Wireless. And I'm here tonight with Michael Orchard of Tectonic Engineering who is the site acquisition specialist for this particular site and also John Edwards, radio frequency engineer for Verizon Wireless in the back and I presented my card to the reporter. Thank you very much for having us here tonight to present the application to the board. We're representing Orange County Poughkeepsie Limited partnership doing business as Verizon Wireless, Verizon Wireless for short, and we're proposing a rooftop co-location at Guardian Self Storage.

MR. ARGENIO: We're still on the same page in the flag pole, yes?

MR. EDSALL: No, this is a different application.

MR. ARGENIO: Okay.

MR. ROHDE: Yeah, and this is a Guardian Self Storage at 145 Windsor Highway, I'll just show you really quick here is Guardian Self Storage looking from Windsor Highway facing the building we're proposing antennas

right on this little corner of the front and I'll go into that in a little bit in more detail. But anyway we're here before the planning board as we need special use permit approval. We believe that because this is a co-location which the code totally favors this should be subject to a reduced review by the planning board and I'll get into that too. Just so you know, we had, yes, we had a meeting I believe with Mr. Edsall back in 2009.

MR. ARGENIO: Wait a second, what did you just say? Did you just say because of a co-location you feel you should be subject to a lesser review?

MR. ROHDE: Slightly reduced review that we believe--

MR. ARGENIO: Because of the co-location?

MR. ROHDE: Correct, yeah.

MR. ARGENIO: Alright, go ahead.

MR. ROHDE: Sure, so in July of 2009, I'm sorry, we met with Mr. Edsall I believe but it was not my, it was my colleague, Scott Olsen, to discuss this project. I believe at this time possibly before that there were discussions by T-Mobile or Omnipoint was looking to cite maybe in the orchard kind of by the self-storage place.

MR. ARGENIO: Yes.

MR. ROHDE: At this time, it seemed like that was not going to be an option and so we were told to proceed with this plan that we were looking at and so that's what we did. Took a while to get our--

MR. ARGENIO: If I can interrupt just for a second. Mark, this is the applicant where they wanted to locate in the orchard in the back towards the back of the

orchard or is that the other applicant?

MR. EDSALL: T-Mobile originally proposed a freestanding tower in the orchard and then are now modifying it for the same property but not the flag pole, this is a wholly separate thing.

MR. ROHDE: No, this is the first and only that we have proposed.

MR. ARGENIO: Just wanted to get my bearings straight.

MR. ROHDE: We submitted an application in May I think around May 20th to the board, supplemented that in June with radio frequency, safety and non-interference certifications for the board's review. So why are we here? Probably many of you have seen the network commercials regarding Verizon Wireless, it's all about the network and we're here to enhance and improve the network in this region. We have identified and John if the board has any questions can certainly go into much greater detail with the expertise that he has much better than I can but we're proposing this facility here because we have a coverage gap in what is our 1900 megahertz spectrum, Verizon Wireless has licenses in three different chunks of the wireless spectrum 850 megahertz, 1900 and also in 700 megahertz which is the kind of the fourth generation high speed data stuff. The primary reason for this particular project is to remedy a coverage gap in the 1900 megahertz spectrum, that's voice and data, it will also facilitate the ability to have additional capacity in the 850 megahertz spectrum. And John by all means jump up and tell me if I've said something completely out of line here. So what happens is once the radio frequency engineers have identified a coverage gap, they identify, they look at the terrain, they look at what else is around in the network and try to figure out a place basically a ring called a search ring or a search area where we need to cite a facility to be able to

correct or take care of that coverage problem or service problem. That service area or search area or search ring is somewhat limited by local topo by radio frequency clutter, things like leaves, tree canopy, buildings, hills, the reason being that wireless services are very low power affairs so the technology is really line of sight, can't travel very far and it can't travel through substantial obstacles. And so once that search ring is identified, the radio frequency engineers hand it off to the site acquisition team, Michael Richard and his crew in this case who go out and look for facilities in the area. And as a general rule, what Verizon Wireless and all the other carriers look for too and truthfully what most town codes including the Town Code of New Windsor tells us to look for existing telecommunication towers or tall structures that we can cite our facilities on and that's called co-location. And it's a good thing for carriers generally because you don't have the costs associated with building a new tower. It's also a good thing for municipalities generally because it tends to reduce the number of towers that you would have in a town and towns tend to prefer not to have too many towers. So in this case in the Town of New Windsor and this goes to the reduced review issue, actually in your Town Code it's Section 300-28 (d) it says at all times shared use of existing tall structures, for example municipal water towers, multi-story buildings, church steeples and farm silos and existing or approved towers shall be preferred to the construction of new towers. And so in this instance, we're proposing a facility on an existing tall structure, a multi-story building Guardian Self Storage and that's clearly as per the Town Code preferred entirely what we're supposed to do. We do understand we have heard that there's the potential of a flag pole facility that's not built currently on the property and it's being proposed. We have no idea where it is and in the stage of being developed but we can address that maybe later. Flag pole doesn't really work for us, even if you put the

town law aside which directs us to put it on a tall structure that exists, flag poles have various limitations you have to put antennas inside the flag pole rather than have them outside tends to limit the number of antennas you're able to actually put up. It costs more to maintain a facility like that, you have to get a man lift involved to send him up to take care of the antennas if there's a problem and also because I'm assuming that T-Mobile at some time will be proposing to be a flag pole they'll be proposing to be at the top of the flag pole probably if they're anything like we are, Verizon, they'd want to have a couple different horizontal areas within the flag pole where they would want to sit their antennas high, which would mean that our antennas would have to be situated lower. The lower you go because of those issues I was describing before low power attenuation, clutter, things that get in the way you're not going to get the type of coverage that you could. And also with the reduced number of antennas. But in any event, that's really all speculation because as far as we know, we don't know anything really about the flag pole and we're proposing to put this on an existing tall structure which your Town Code tells us to do. So what is it that we're proposing to do on this tall structure? Now this building that these plans that you have here and also in the materials that you have been provided which are not the color that this is show that we're proposing to put 12 antennas, they're six foot antennas and we're proposing to put them in this area of the existing building on the rooftop as we're looking at it. Now this is demonstrated here in the plans that you have before you as well as really just kind of a flat facade, you don't really see the antennas and the reason for that is that the antennas go behind a radio frequency invisible screen, a camouflaged screen that would be designed to look to the extent possible like the existing facade.

MR. VAN LEEUWEN: How tall are these antennas you said

six foot?

MR. ROHDE: The antennas are six feet tall.

MR. VAN LEEUWEN: How many?

MR. ROHDE: Total of 12, there would be four on each of three faces or sectors so I'm not certain actually which way they're going to be pointing, probably up and down, the goal of the coverage is more or less to cover 32 or Windsor Highway and points east so I'm guessing John the third ray is going to be pointing to the east?

MR. EDWARDS: Yes.

MR. ROHDE: So this is actually looking east so you'd have them I think right north, south and east, okay. So the, so we have here a rooftop that has different levels, this actually shows there's a parapet here which is higher than the roof and then there's a fascia here which goes up even higher than the parapet does itself. The screening is actually a total of 10 feet tall but because of where the antennas would be situated which is to say pointing this way to the north, that way to the south and that way to the east, they don't need to get above this fascia right here. So as we look at this while the screening itself would be 10 feet tall, as you're looking at it here it's only six feet above this particular fascia. If you're looking at it from the side so either from the north or the south because you get here behind the fascia which is out here fronting on Windsor Avenue.

MR. ARGENIO: Is that box where they're going to go approximately?

MR. ROHDE: Yes, that's correct and you can see it again it's over here, it's hard to tell exactly where that is from the side but if you're looking at it from the front, it would be over on the south side.

MR. VAN LEEUWEN: How high is the fascia?

MR. ROHDE: How high is the fascia itself?

MR. VAN LEEUWEN: Yes.

MR. ROHDE: The fascia, let's see, is at above ground level 310 feet and ground level it's right here is about 280.

MR. ARGENIO: Would you step aside just a bit, I think what he's referring to is this distance from this line to that top of that parapet, what's that distance?

MR. ROHDE: That's four feet, the fascia.

MR. VAN LEEUWEN: The fascia itself is four feet?

MR. ROHDE: Four feet above the parapet.

MR. VAN LEEUWEN: The antennas are going to be six feet above that?

MR. ROHDE: Yes, well, the screen.

MR. ARGENIO: Screening will be six feet?

MR. ROHDE: Well, the screening will be six feet above the fascia.

MR. ARGENIO: Got it.

MR. VAN LEEUWEN: And the antennas are going to be how high now above the fascia?

MR. ROHDE: Well, the antennas actually will be above the fascia, although it doesn't matter because we're not pointing the antennas over the fascia. The antennas are going to be pointing in this direction

where there's no fascia.

MR. ARGENIO: I think what Henry's trying to determine is how visible are they from the road? If you have a six foot high antenna and a four foot high fascia, seems to me straight line view you'd see two feet but you're actually going to see a little bit more than two feet, Henry, because there's a screening they're proposing that goes in front of these antennas so you'll be seeing about five or six feet of this screening material that you're talking about.

MR. EDSALL: It's six foot in comparison to the fascia and 10 foot from the sides compared to the parapet.

MR. ROHDE: That's correct.

MR. EDSALL: From the sides it's 10 from the front, it's six.

MR. SCHLESINGER: I'd like to take the antenna thing a step further, when I think of an antenna, I think of an antenna on a '58 Chevy and these type things. I don't know nowadays you see the round radar things, just give me a little bit more description of what the antenna looks like.

MR. ARGENIO: I was going to ask the same thing but let me just get back to that. Do you have anything more that you want to show us, point out to us on these plans because I'm sure some of the members have some questions or comments they want to make. There's certainly other applicants here, I don't want to slight anybody here.

MR. ROHDE: I understand, just a couple more points to make.

MR. ARGENIO: Make the points and I want to get right back to that.

MR. ROHDE: Sure, we're also proposing not on rooftop on the ground level an equipment shelter to house our networking equipment that would be behind the building that's 12 x 30 prefab structure 10 1/2 feet it would go in the parking lot where I think there are dumpsters currently and then cabling would be totally concealed, would run from here to the equipment shelter. This is all within the setback requirements of the Town Law. And then just to talk a minute on the reduced review that Section 300-28 (d)(2) says that if you provide all the requirements that are in (d)(1) which is the special use permit application which you can find in tab one of the application, intent from the owner to co-locate which we have because were are they're asking us to co-locate on the roof and site plan which we have submitted also in reduced form at tab 8 an engineer's report which we have provided, certified structural capacity of the building, tab 4, the environmental long form EAF visual addendum tab 5 and this FCC license is tab 6, we have provided that stuff. If you deem these modifications to the existing building to be insignificant, then basically the board can be done with it and can move on. Now that said, we have also provided more or less all the other information that the board would need if you decided you didn't want to do the reduced review.

MR. ARGENIO: Okay.

MR. ROHDE: Happy to answer any questions.

MR. ARGENIO: I appreciate the opportunity to explain it to us. I'm not going to ramble on and on because I'm sure as far as the review, the review we don't have a policy of reduced review, there's no reduced review, you have met the code and accepted the guidance there and you're obligated to do that and you have done that and I appreciate that. And the same as we'd review any other application we're going to review this one just

the same with no more or less scrutiny. But cell towers are an important issue to the people in this town as we have learned on this board as of late. Back to your thing, Neil, relative to the appearance of what you're going to do here, what I would like to see what I'm going to suggest is the possibility of when you come to see us next because you're an attorney, sir?

MR. ROHDE: Yes, sir.

MR. ARGENIO: You're certainly aware that under the county law this is within 500 feet of a state highway. As such, it's got to be referred to county for review. We have no subjectivity in that, that's the law so we'll certainly be seeing you folks again.

MR. ROHDE: We've anticipated that.

MR. ARGENIO: Nice try though by the way.

MR. ROHDE: What? Oh, no, no, no, believe me, we want you to send it to the county, you've got to do that.

MR. ARGENIO: When you come back, I'd like you to include on the drawings somewhere a picture of what this antenna looks like cause like Neil I agree, we tend to think of we all have a different concept of an antenna but I'm sure that none of our concepts are precisely what you're intending to put up there. I mean, there's on antenna with bars and things that go to the left and to the right, there's round antennas, there's satellite dishes, so please include that for us also which I think would be very helpful for the folks sitting up here is if you included in that nice rendering, you did or that Tectonic did if you'd include on that to scale and in the appropriate color and image of the screening.

MR. ROHDE: Simulation?

MR. ARGENIO: Simulation, I think that's a great suggestion that you made. Now if anybody else has any questions, please jump in. Mark, I have a question for you. Howard?

MR. BROWN: These antennas they're directional antennas or omnidirectional, they can face either way?

MR. ROHDE: I did want to respond to that, the antennas are panel antennas so they're rectangles six feet high, they're 12 inches roughly wide.

MR. VAN LEEUWEN: Wait a minute, let's give the actual height of the antennas, they're not six foot high, they're 10 foot high.

MR. ARGENIO: No, they're not, the screening is 10 foot high.

MR. ROHDE: We can certainly provide that.

MR. ARGENIO: That would be helpful to Mr. Van Leeuwen and the others eliminating any confusion.

MR. ROHDE: Absolutely, that's not a problem. I did want to say about the antennas you'll never see them because they're behind screening that shields them entirely.

MR. BROWN: If they were pushed to the back of the building, what affect would they have on picking up the signaling?

MR. ROHDE: I'm going to have to throw it to John.

MR. ARGENIO: That's another thing that I was going to ask, that's a good thought.

MR. EDWARDS: Good afternoon, Jonathan Edwards with Verizon Wireless. In this particular case, why that

position was chosen was because that's where there's an existing parapet or existing raised part of the roof so they just want to incorporate that and extend that further up. Moving it towards the back of the building would not be an issue because we're shooting north south and east so this, in this particular case, it wouldn't matter but just for aesthetics in terms of the building and existing structural nature of the building that was why that position was chosen.

MR. ARGENIO: Your guy's thought was that it being forward closer to the parapet it helps shield it better I think that's what I'm hearing. Is that what I'm hearing?

MR. VAN LEEUWEN: You put it in the back of the building you'd see less of it.

MR. EDWARDS: That's it right there, this is the front of the building but you're correct but again, I believe there's an existing part of the roof right here in this section so again, it was just extending that further up.

MR. ARGENIO: So you're okay if we requested you to move it to the east of the rear of the building that would work?

MR. EDWARDS: From my perspective yes but there'd be some additional structural analysis that would have to be done, really depends on what's underneath.

MR. ARGENIO: Let's table that for now, take a ride by there you guys between now and then and think about that.

MR. EDSALL: In the application it identifies there's an existing elevator penthouse on the roof so that structure is what they're mounting to, that's what the structure--

MR. ARGENIO: That load is going down from there?

MR. EDSALL: That's right, if they don't go to that, it's going to be a roof load.

MR. ARGENIO: It's not something you can just toss on some decking and be done with it.

MR. EDWARDS: There'd be some further analysis.

MR. VAN LEEUWEN: I'd like to see you check it out.

MR. ARGENIO: You guys take a ride by there, take a look.

MR. SCHLESINGER: Jerry, I have some other questions.

MR. ARGENIO: Go ahead.

MR. SCHLESINGER: Correct me if I'm wrong but I think we've had two, three applicants in regards to antennas recently. I don't think that that's going to be the last applicant. My question is first let me ask you how far away is your closest antennas right now, a mile, five miles?

MR. EDWARDS: Completely different site.

MR. SCHLESINGER: I think you said there's a void in your service, so how far away is your--

MR. EDWARDS: Closest one is actually in the city of in Newburgh, about a little over a mile away.

MR. SCHLESINGER: So therefore you have one a mile away and you need one within a mile in order to correct a void?

MR. EDWARDS: Correct.

MR. SCHLESINGER: Now my next question is I'm not a technology genius but you see all the new phones, all the new phones are able to do everything you can possibly think of. Does that increase the requirements or the demand for more antennas?

MR. EDWARDS: Generally yes because all of a sudden you start to see an increase in traffic, now everybody's using the internet, everybody's using their voicemail.

MR. SCHLESINGER: Therefore, with all this increase in technology, there's going to be more and more of a demand for antennas?

MR. EDWARDS: Yes, I would assume, yes.

MR. SCHLESINGER: My other question is--

MR. ARGENIO: Can I just extend that? When you plan to put this thing up, do you plan for 10 year forward look, a five year forward look, 20 year forward look?

MR. EDWARDS: We don't usually look that far. Typically, we have at least four or five years kind of in mind, kind of knowing what the processes are, knowing the zoning and so forth and that sort of thing, so we do have a pipeline per se of sites we'd like to do across the state.

MR. SCHLESINGER: My last question is does Verizon, T-Mobile, whatever other telephone companies there are, do you guys work together at all and say hey, listen, we're thinking about putting an antenna, we're thinking about mapping something up and, you know, guys, help me out on the last one, maybe I can help you out on this one, maybe we can work together and do this jointly?

MR. EDWARDS: It's not completely out of the realm of things, it does happen a lot, in fact, obviously you

see towers that have five different companies on it so to some extent there's cooperation between us in certain cases where there's a tougher area, for example, a residential area or somewhere that's not preferred usually we'll kind of by word of mouth or other means we'll kind of hear what other people are doing. It's such a small community in terms of the carriers and such that usually hear things going on and sometimes yes, it can happen.

MR. SCHLESINGER: My question is, you know, listen, it's not directly related to your application, we have to evaluate your application as it's presented to us but I think that this opens like other doors as far as yours as a planning board is concerned.

MR. ARGENIO: I think you brought up a good point, I think you did.

MR. VAN LEEUWEN: How long is your lease on this?

MR. EDWARDS: I'm not sure.

MR. ORCHARD: Thirty years with option to renew.

MR. VAN LEEUWEN: Thirty years you're going to keep that antenna there?

MR. ARGENIO: Mark, let's talk about a few technical things on the certification of the RF frequency and the power of the RF frequency and such, do we have somebody on our end that reviews that? You don't do that, do you? Who would we retain to perform that function to verify that the signal is number one within the lawful requirements set forth by the Federal Communications Commission and two, that what they're saying is accurate?

MR. EDSALL: Well, actually, there's two issues, one is the need, the other one is the radio frequency

emissions. We have in many cases for municipalities reviewed the information and brought in special consultants that for some reason there's a particular concern to look at and we have discussed that in New Windsor for other applicants. Relative to our RF emissions, we have never reviewed that and counsel will assist as appropriate to point out that the local municipalities are preempted from doing certain reviews.

MR. ARGENIO: Okay, look, here's where I'm going with this. I think it's important, I think it's critically important based on the feedback that the board has received of late that we, I don't want to be an obstructionist, it's important that we make sure that what we're approving we have an understanding of what we're approving. And that just because we say it's the FCC's issue I guess I'm saying I just want to know that it's within conformance of what other laws are out there that cover this type of application is what I'm saying I want to proceed cautiously, that's all.

MR. EDSALL: I can look at it to the extent--

MR. ARGENIO: I'm not denying that's not where we're going, there's been a lot of turmoil in this room of late over cell towers, you guys have the right to conduct your business and there's not a person in this room who doesn't own a cell phone, I'll guarantee it and you need towers to have cell phones. I'm okay with that. But I just want to make sure we proceed prudently and could you show us, Steve, do you have anything else to say?

MR. GABA: Under the Federal Telecommunications Act if they need to fill a gap in their service then they have, and they presented a plan that complies with your requirements, bulk requirements as far as putting them up, you pretty much have to let them put up their facility, particularly if they're co-locating which

your code does favor. In regards to the, so that's one thing you can look into, you can hire a consultant to look into the proof that they have that they need to fill a gap as far as their coverage goes.

MR. ARGENIO: I was more, Steve, quite frankly, that's a point Neil brought up but I was more concerned with the frequency emission. We had a fella that stood here with the other applicant and he said exactly what the frequency transmission was going to be.

MR. GABA: It's the same thing, Jerry, that the Federal Telecommunications Act has established preemptively that if they're within the allowed emissions rate that it's been determined already that the tower's safe.

MR. ARGENIO: Who watches that?

MR. GABA: You can if you wish check their figures to make sure that what they're proposing will be within the allowed emissions rate. That's about as far as it goes.

MR. ARGENIO: I'm okay with that, I have the planning board attorney telling us that and that's what I'm looking for. Okay, again, if you guys can think of a question. Oh, look, it's a cell phone, oh my gosh.

MR. SCHLESINGER: We're paying attention to the cell tower as far as their equipment shelter there meets all the setbacks and everything? Looks like there's some parking places being removed, if I remember correctly somewhere right near there where Guardian was being built there was an issue with the parking.

MR. EDSALL: There are limited requirements with the property relative to 300-28 for bulk requirements and it's very flexible the way the code's written to have the board review the appropriate locations for the accessory buildings and not treat them as principle

buildings.

MR. ARGENIO: I don't have a problem unless as Neil points out if they owned 30 stalls and displacing 20 that could be a problem. You have reviewed it for that Mark?

MR. EDSALL: Yes, I have, it's effectively adjacent to some dumpster enclosures, it has limited impact.

MR. ARGENIO: I'll accept a motion that we, that the Planning Board of the Town of New Windsor declare itself lead agency under the SEQRA process.

MR. VAN LEEUWEN: So moved.

MR. SCHLESINGER: Second it.

MR. ARGENIO: Motion has been made and seconded that we declare ourselves lead agency.

ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

MR. ARGENIO: I'll accept a motion unless somebody disagrees that we schedule the mandatory public hearing for this special use permit.

MR. VAN LEEUWEN: So moved.

MR. SCHLESINGER: Second it.

MR. ARGENIO: Motion's been made and seconded. Roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

MR. ARGENIO: Mark, it seems to me that this is the appropriate level of fitness that it can be referred to the county.

MR. EDSALL: Yes, I'll handle that referral and work with Nicole.

MR. ARGENIO: Please counselor if you could before the referral to county could you have them attach to the plans the rendering of the antenna, would you be kind enough to do that?

MR. ROHDE: The antennas themselves?

MR. ARGENIO: Yes, not rendering, the plan view of the antenna, we asked that the board can see that.

MR. EDSALL: Just for a clarification, as counsel indicated, the screening facilities they're proposing shield the view of the antennas so what you're going to see is you're going to see the 10 foot panel.

MR. ARGENIO: Let's table that, okay? You're right.

MR. EDSALL: But I'd suggest I think they should give you an idea on that elevation view that the finishes match, what it's going to look like.

MR. ROHDE: Right.

MR. EDSALL: But you won't see the antenna themselves.

MR. ROHDE: We can certainly provide a simulation to the board and we'll work diligently to get that done. Just so you know, what happens is the company that's hired to come out on and do this actually comes to the site, examines the building itself, checks what it's made off, what the colors are and before heading back so it makes darn good matches.

MR. ARGENIO: Fantastic, we're going to see them again. Anything else on this, Henry, you're alright?

MR. VAN LEEUWEN: I would just like to see what it would look like if it was in the back of the building.

MR. ARGENIO: I think what we should do is let's everybody take a ride by there and see how that parapet wraps the front of the building.

MR. VAN LEEUWEN: I know how it wraps.

MR. ARGENIO: And he's going to give us the renderings. My question in my mind you go, I go passed there every day, how far back the wraps go we'll take a look and we'll talk about it. Okay? What else can I do for you guys?

MR. ROHDE: Was the public hearing scheduled?

MR. ARGENIO: Contact Nicole and she'll tell you what you need to do to schedule the public hearing. She'll put you in touch with the assessor, you can send the envelopes out for the mailings and we'll go from there.

MR. ROHDE: Sounds good, thank you.

APPROVAL_OF_MINUTES_DATED_5/12/10_AND_5/26/10

MR. ARGENIO: Members, I'm going to back up just a little bit, Nicole says I missed something here and she's a hundred percent right. I would like, I'll accept a motion if anybody sees fit to approve the planning board minutes of May 12 and May 26 which were sent out on June 7 as written.

MR. SCHLESINGER: So moved.

MR. GALLAGHER: Second it.

MR. ARGENIO: Motion has been made and seconded we accept them as written. Roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

THE GROVE AT NEW WINDSOR (09-22)

MR. ARGENIO: The Grove, K. Hov. subdivision and PUD.

Mr. Justin Dates appeared before the board for this proposal.

MR. ARGENIO: The applicant proposes 22 new zero lot line lots on the approved Grove site plan project to establish townhomes with related property lots. The plan was previously reviewed at the 15 July, 2009, 24 February, 2010, 24 March, 2010 and 28 April, 2010 planning board meetings. Did you get it right this time?

MR. DATES: It's right.

MR. ARGENIO: You're sure?

MR. DATES: Yes, sir.

MR. ARGENIO: Have the property ownership and maintenance obligation issues been resolved?

MR. DATES: Yes.

MR. ARGENIO: The rec areas and such?

MR. DATES: Yes.

MR. ARGENIO: Mark, are you alright with this, they got that tied down?

MR. EDSALL: Yes. Speaking with Dominic, the concerns and questions as to the structure for the maintenance the reasoning was explained and Dominic indicated to me that he was okay with it, Steve could probably add if he's heard anything more.

MR. GABA: You have a condition in the proposed

resolution regarding that that takes care of it pretty well.

MR. ARGENIO: Say again Steve.

MR. GABA: We have a condition in the proposed resolution.

MR. ARGENIO: It's in the resolution?

MR. GABA: Yes.

MR. EDSALL: I updated under number one all of the current statuses so--

MR. ARGENIO: Town Board granted concept approval 8/5/09, SEQRA issued 7/16/09, lead agency assumed 2/24/10, neg dec issued by planning board 4/29/10. Unless anybody has any questions about this, we've seen this and seen this and seen this, it's a very simple thing and some of the concerns that were brought up by this board were very valid concerns and Mark saw to it that they were addressed, the recreational issue and the lots, I have nothing else. Does anybody else have anything else? Mark, is this straight forward?

MR. EDSALL: Everything procedurally is done. I would suggest that you adopt the resolution that Steve referred to for approval.

MR. ARGENIO: I'll accept a motion we adopt the resolution for conditional final subdivision approval that's been prepared by our counsel.

MR. VAN LEEUWEN: So moved.

MR. BROWN: Second it.

MR. ARGENIO: Motion has been made and seconded by Howard for final subdivision approval to the K.

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Hovnanian subdivision and PUD at The Grove.

ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

MR. ARGENIO: Thank you for being so responsive as you typically are.

HIGHVIEW_ESTATES_-_REAPPROVAL

MR. ARGENIO: Mark, can you just, I'm aware of the next one, just bring other members up to speed on Highview Estates four lot subdivision.

MR. EDSALL: Highview again as we've heard from our counsel in the region there's some kind of an economic situation occurring.

MR. ARGENIO: You're saying the economy's slow? Really? Neil, what do you think about that?

MR. SCHLESINGER: You're right there.

MR. EDSALL: With that in mind clearly there's been several projects that could not meet all the conditions of approval within the 360 days that the law prescribes and the applicant is seeking a reapproval of their subdivision and I've reviewed this with Dominic, our suggestion is that you adopt a reapproval with the same conditions that were imposed on the previous approval. To our knowledge, nothing's changed we believe from a SEQRA determination standpoint, it's the same, the zoning has not changed.

MR. ARGENIO: This is yours.

MR. EDSALL: Right.

MR. ARGENIO: Nothing changed?

MR. BIAGINI: Nothing's changed other than we have now installed all the improvements.

MR. ARGENIO: I'll accept a motion I guess for a reapproval.

MR. VAN LEEUWEN: So moved.

MR. SCHESLINGER: Second it.

MR. ARGENIO: Motion has been made and seconded by
Member Schlesinger for reapproval on Highview Estates.
Roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

CONTINENTAL_ORGANICS_SITE_PLAN_(10-16)

MR. ARGENIO: Continental Organics is next, proposed aquaculture hydroponics farming.

MR. ENDRES: Good evening, Mr. Chairman.

MR. ARGENIO: This application is a change from an agricultural farm use to an agricultural hydroponics fish farm operation. The plan was previously reviewed at the 12 May, 2010 and 9 June, 2010 planning board meetings. Go ahead.

MR. ENDRES: My name is Thomas Endres, my partner's name is Michael Finnegan, Travis Ewald from Pietrzak & Pfau. I think what you see, what you will see here displayed is a comment with the SWPPP, the full EAF we actually submitted, we did the grading, we did the perimeter roads, we did the access roads and I think we have corrected all the comments from the last board meeting. We also have the comments back from the county which I assume you have which basically says if you look at item four they have no further comments from the county, the department recommends to the planning board proceed with this review.

MR. ARGENIO: Now, sir, who's fancier than you guys?

MR. ENDRES: Mr. Finnegan is a little fancier, that's because he has to be, he's an attorney.

MR. ARGENIO: Bulk values are now indicated on this plan. The site complies with the bulk values with the exception of the road frontage which is pre-existing, non-conforming. Regarding developmental coverage on the basis that the temporary structures are not to be considered, that aspect is not a problem. You have done a lot here, Mr. Finnegan, I give you kudos.

MR. ENDRES: Excuse me, I think I get most of them.

MR. ARGENIO: He's the one in the suit, he gets the credit, isn't that the way it's goes, Your Honor?

MR. ENDRES: I think Nicole did most of the work.

MR. ARGENIO: They've come a long way, we had a couple of the members weren't here for one of these meetings but there was a very big concern about the runoff and they retained Travis, I don't know if you did it or not but they did the SWPPP and believe it or not as critical as Mr. Szarowski can be from Mr. Edsall's office, they got it right the first time out of the box which I'm stupefied but kudos to you.

MR. ENDRES: Thanks to Travis.

MR. ARGENIO: I'll read from Mark's comments, MH&E and that is we find the SWPPP to be in substantial compliance with the New York State DEC SPEDES permit for storm water discharge. I want to read something from Mark's comments, Mr. Finnegan and for you folks and again this goes back, this pre-exists you guys, we've had a lot of problems out in this area of the town with The Reserve and such and Brown's Pond and water quality of the City of Newburgh, blah, blah, blah, Mark's comment is as follows and I, and I think we all here agree with it. It is critical that the applicant establish this as the number one priority during the development of the site, that is the implementation of the storm water pollution prevention plan and comply or exceed, you may have to exceed the reserve exceeded by depending who you ask tenfold because of the problems they had and comply or exceed the requirements of the SWPPP and employ all possible practices as identified in the State manual. But I think the big problems with The Reserve, if anybody has any questions, ask, the big problem with The Reserve was that I think the area of disturbance was so so substantial that when they got a big rainfall, correct

me if I'm wrong, Mark, there was almost no technology in existence to mitigate 10 acres of muddy water runoff. Is that substantially correct?

MR. EDSALL: Correct, they had a lot of exposed lands and I think here what I'm suggesting is it would be overly protective if anything because it would make things a lot smoother.

MR. ENDRES: I think we followed your suggestions.

MR. ARGENIO: I think you did, I think you did and your disturbance is not that great and you have the pond there and I feel like I'm the only one talking. Do you guys have any comment on this? They have done everything we asked them to do.

MR. SCHLESINGER: This property has town sewer?

MR. VAN LEEUWEN: No.

MR. ARGENIO: Not in the west end. You got sewer at your house?

MR. SCHLESINGER: I'm waiting.

MR. ARGENIO: So am I, don't hold your breath.

MR. VAN LEEUWEN: I've got a longer wait than you do.

MR. EDSALL: Keep waiting.

MR. ARGENIO: I think it ends somewhere near the airport.

MR. VAN LEEUWEN: It ends at the airport at the housing, that's where it ends.

MR. ARGENIO: The owner and contractor certification are required for the SWPPP, everybody has to by into

it, the erosion and sediment control sequence notes included on sheet 3 of 4 and the report narrative should be expanded to include phasing to limit the disturbance to five acres per phase. I think that's the law at the DEC level Region 3. The NOI included in the appendix must be completed to the extent possible. If anybody sees fit to declare a negative dec under the SEQRA process I will accept a motion to that effect.

MR. VAN LEEUWEN: Hold on a minute, you know we've got a reservoir here.

MR. ENDRES: We're very familiar with that.

MR. VAN LEEUWEN: Now the leftover water from the different buildings or the plastic buildings whatever the temporary greenhouses where does that go?

MR. FINNEGAN: The leftover water that's circulating?

MR. VAN LEEUWEN: No, with the fish?

MR. ENDRES: There's no leftover water, it's a closed loop system, the only water that's lost is through evaporation so the only water that would be runoff would be rain water which is currently assumed by the soil itself.

MR. VAN LEEUWEN: But in other words, you're telling me there is no--

MR. ENDRES: There is no--

MR. VAN LEEUWEN: --fish manure or nothing else is going to go into that?

MR. ENDRES: Nothing, not a single drop.

MR. VAN LEEUWEN: If we found out it runs into the reservoir we've got a problem.

MR. ENDRES: We have a problem, they'll come after us.

MR. ARGENIO: We had a pretty lengthy discussion, Danny brought it up about the disposition of the water for the fish farm. What do you do with it?

MR. ENDRES: It gets filtered through the plants and recycled back into the fish tanks, we lose nothing except through evaporation.

MR. FINNEGAN: There's lots of confusion about fish farm as opposed to aquaponics farms, just to put it on the record, most fish farms do not use re-circulating water technology, they actually discharge into a stream, discharge into some sort of a waterway or septic system or really large septic system or a municipal sewage system. With an aquaponics system where the plants actually filter the water before it circulates back into the fish tanks, there's no need for discharge.

MR. ARGENIO: Got it.

MR. VAN LEEUWEN: Okay.

MR. ARGENIO: They've done everything.

MR. VAN LEEUWEN: I so move.

MR. BROWN: Second it.

MR. ARGENIO: Motion made and seconded for negative dec.

ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE

MR. VAN LEEUWEN AYE
MR. ARGENIO AYE

MR. ARGENIO: Does anybody have anything else with this? This is pretty simple. How are you doing with the other property?

MR. ENDRES: Great, fine, we've done the inspection, we have a contract.

MR. ARGENIO: You do?

MR. ENDRES: Yes.

MR. ARGENIO: Good, perfect.

MR. ENDRES: We haven't signed it but we have it in our hands and we're kind of waiting on this meeting and the legislative meeting before we start throwing more money at stuff.

MR. ARGENIO: Were you the one concerned about that, the Pete Belle property?

MR. SCHLESINGER: Yes.

MR. FINNEGAN: Should it come to pass that we acquire that, we recognize that we'll be back in for another review and there will be amendments required, we anticipate that.

MR. ARGENIO: We talked about that.

MR. FINNEGAN: And--

MR. ARGENIO: Anybody have anything else? I'll accept a motion for final, I'll read the subject-tos.

MR. SCHLESINGER: Made.

MR. GALLAGHER: Second it.

MR. ARGENIO: Motion has been made and seconded that the Town of New Windsor Planning Board offer final approval for Continental Organics site plan on Mt. Airy Road subject to the bond estimate and anything else, Mark?

MR. EDSALL: Your usual requirement to pay fees.

MR. ARGENIO: You agree to pay the fees?

MR. FINNEGAN: Yes, sir.

MR. ARGENIO: Roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	ABSTAIN
MR. ARGENIO	AYE

MR. ENDRES: Thank you for your help.

RIDGE_CREST

MR. EDSALL: Very quick item that we want to refer over to the building department, the Ridge Crest Baptist Church on Route 94 near Butterhill is proposing in connection with improvements to their restrooms for handicapped accessibility, a new vestibule at their entrance which is on the right side which would be the south side of the building and the vestibule would include two new bathrooms, very minor.

MR. ARGENIO: Over across from Planned Parenthood on 94, yes?

MR. EDSALL: Across from Upskate.

MR. ARGENIO: Neil, you know where that is, right?

MR. EDSALL: The bottom line is they're proposing to put this new entrance in with the bathrooms and in my opinion, it doesn't rise to the level of the need for a site plan amendment, minor impact on the site. I would suggest that the board acknowledge it and then refer it to the building department to handle.

MR. ARGENIO: And Mark has disclosed to me that he is in fact not a Baptist nor has he ever been a Baptist.

MR. EDSALL: I have no direct involvement and I just think it's--

MR. ARGENIO: Him and I talked about this and I told him to bring it to the guys and let them decide. I don't think it's a big deal.

MR. VAN LEEUWEN: I don't have a problem with it either so--

MR. ARGENIO: Henry or Howard?

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MR. SCHLESINGER: I'm fine.

MR. GALLAGHER: Yes.

MR. ARGENIO: You just dumped it on your wife, it's yours, honey.

MR. EDSALL: Nicole, if you can advise them.

MS. JULIAN: Yes.

MR. ARGENIO: Please advise the building inspector too, send her a memo.

RAY'S_TRANSPORTATION_(10-18)

MR. ARGENIO: Ray's Transportation site amendment. Application proposes additional use on the approved site plan involving a concrete railroad tie crushing operation with associated improvements. Plan was reviewed on a concept basis only. Okay, I'm going to say a couple things on this. And then I'm going to say very little more. I have in my hand a petition, couple pages, I don't know how many signatures it has, it's a few, so it's on file in the Town Clerk's office. I'm sure you guys probably want to FOIL it at some point in time so after this petition came, the sum and substance of the petition is that it was a letter attached to it and somebody complaining about heavy truck traffic back on McArthur Avenue back behind Ruscetti Road. So I received a letter from the Town Supervisor which you guys know about, I assume Nicole e-mailed that to you guys and the letter says Dear Mr. Chairman: Keep in mind that I received this petition and the planning board should seriously consider this subject and take whatever action it deems appropriate to mitigate the problem moving forward, amongst other things. So that's what it is. Now fortunately or unfortunately the business of which I'm part of is right down near here and I'm going to say for the record that in the interest of even avoiding the appearance of any impropriety, I am going to recuse myself. I don't, I hate doing this but I'm going to do it because I genuinely believe it's the right thing. I don't even want to have the appearance of an impropriety, I'm going to recuse myself for this application. Now, Mr. VanLeeuwen from time to time his wife is in ill health and he does miss some meetings from time to time, in the interest of continuity, I'm going to ask Neil to handle this and I don't think I have to say anymore. Did I miss anything?

Stewart Rosenwasser, Esq. and Mr. Chris Viebrock of Chazen Companies appeared before the board for this

proposal.

MR. ROSENWASSER: For the record, when we were here last time, I indicated that we had no, even though the site plan was adjacent to your property, we had absolutely no problem whatsoever with your ability to sit on this review fairly and impartially. I would reiterate that now. I respect our decision that you've made but I just wanted the record to reflect that it is not at our urging.

MR. ARGENIO: Your Honor, it's certainly not all at your urging and I certainly appreciate it and you did say that, you complimented this board and you complimented me personally last time but with the traffic thing in there.

MR. ROSENWASSER: We were prepared to address that.

MR. ARGENIO: It's too close and it's, I don't want anybody to say it's just not right and I'm not going to put myself in that position. I've got enough rocks thrown at me during the day, I don't need them thrown at me at night. Okay, Neil, have a seat.

MR. VAN LEEUWEN: Anybody got a rock?

(Whereupon, Mr. Argenio stepped down from the board for this proposal.)

MR. SCHLESINGER: Can you just give us your name and position to Franny so she has it in the record?

MR. VIEBROCK: Chris Viebrock from the Chazen Companies.

MR. ROSENWASSER: Stewart Rosenwasser, attorney for the applicant, Ray's Transportation.

MR. SCHLESINGER: Gentlemen, if I remember correctly

sometime in November I believe Ray's Transportation was before the board for some sort of approval. Can you just refresh our memory on that?

MR. ROSENWASSER: Yes. As you may recall, Ray's Transportation conducts an operation involving railroad and concrete ties which they obtained from the railroad. And there was this site was purchased by Mr. Stackhouse who's here. And there was a desire to move the operation from where it was where he leased property to the location here off of Route 32 adjacent to the chairman's property, Argenio. So we were here for a site plan approval. There was as you recall a great deal of concern over the fact that these ties were creosote treated and in light of the law that was recently passed the year before, there was concern that it may run afoul of the law number one and number two, there was concern about the proximity to the town's, to wells that were not being used but certainly were a water source for the town. We addressed that and mitigated all those concerns in the best way possible and that is to avoid any runoff from those railroad ties by having all of the storage undercover. And the planning board found that acceptable. There was an advisory opinion I believe sought from the DEC who we did meet with concerning the project and they did oversee the operation on the prior site. They were satisfied that due to the for want of a better phrase a lack of history and regulations promulgated under the new statute that they could not say that what Mr. Stackhouse was doing or his company was doing selling these ties out of state not for use within the State of New York that there was a sense that it, that it does not run afoul of that law prohibiting the sale, manufacturer or disposal of creosote ties within the state. So the site plan was ultimately approve, he's in the process now I think there's--

MR. SCHLESINGER: Let me back up one second. You need any special permits or variances or anything from your

past application?

MR. ROSENWASSER: No, we needed no special permits or variances or anything of the sort.

MR. SCHLESINGER: His previous business I believe you said involved railroad ties, concrete and wood or just concrete at the time?

MR. ROSENWASSER: No, it was railroad, it was wooden railroad ties and concrete ties.

MR. SCHLESINGER: And concrete ties?

MR. ROSENWASSER: That's correct. Now on the prior site he does have a crushing operation on the site that it still is, it is DEC regulated, he's permitted by DEC to do it. You'll recall when we were here last time we did not ask at that time that the crushing operation move here, the main reason for that was looking forward there was a thought that the need to do that would peter out because they had pretty much reached the point where there would be very little in the way of railroad ties, concrete railroad ties to dispose of.

MR. SCHLESINGER: So let's get to the chase now.

MR. ROSENWASSER: Since that time and I'll let perhaps Ray explain there has now become a significant need again to continue with the crushing operation and I will permit him--

MR. SCHLESINGER: I'm assuming that's why we're here today.

MR. ROSENWASSER: There were things that were omitted, very minor things.

MR. STACKHOUSE: Good evening, Ray Stackhouse from Ray's Transportation, good evening ladies and gentlemen

from the board. To help clear up some of this issues here as far as the concrete crushing operation as Mr. Rosenwasser said we're permitted, the reason why we didn't put it on the original site plan because the railroad specifically Metro-North their projects were supposed to be completed last year and they came to us in late December and said they had another project for this spring and a small project for next year and now they're telling us that will be it, that all the failed concrete ties will have been replaced. So being that we're moving out of our existing facility into this facility, basically why we're coming back in such a short time from having the site plan approved and in doing that, we had added a few other things here, things that we really forgot.

MR. ROSENWASSER: For instance, there was no parking area shown number one, there's a truck wash which we had cited here for the trucks and a wash area and it includes an oil water separator of course to facilitate that, there was no parking area delineated and we delineated it here now and it's only nighttime truck parking. There are not trucks parked here during the day because they're obviously out somewhere other than in the yard. And there's a truck, a proposed truck scale, all of these are really corollary to the existing operation which they were running which by oversight or omission they just weren't thought of at the time. So those are slight modifications to the site plan that we have now added here. Of course the crushing operation we have added and we cited it here at the very, the crushing operation it's really at the back farthest most point of the site and none of the concerns regarding contamination or pollution of the ground waters are evident now because this is, all this is concrete so we don't have any of those concerns. Additionally on this site plan, Mr. Stackhouse is in the process of leasing an adjacent piece of property where he wants to put in a rail site to facilitate the overall operation and this isn't a, well, I'll let you,

why don't you discuss exactly.

MR. SCHLESINGER: Your present location for your concrete crushing you're moving out of there?

MR. STACKHOUSE: Yes, at the end of this year.

MR. ROSENWASSER: Out, right. And I know the town was very happy about the tie operation and part of the operation.

MR. SCHLESINGER: Tell me about your temporary metal storage area.

MR. STACKHOUSE: That's all from the existing site plan approval, that's the railroad tie place and the rail that we purchased from the railroad and that's already been, that's through the original site plan.

MR. ROSENWASSER: That's on the original site plan?

MR. STACKHOUSE: Yes.

MR. SCHLESINGER: Mark, how do we deal with temporary?

MR. EDSALL: Well, I think that it has to be clear what the meaning is, if they mean that it's not full time that it's placed there and it's occasionally there it's there for a short period of time and then removed or if they mean temporary that it's only going to occur for a month and discontinue. They need to be clear on the record what they mean by temporary.

MR. STACKHOUSE: I can say that we just recently bid on a I believe a three year, maybe a four year project with Long Island Railroad that we received that we're buying from their rail and their tie plates the next go around we might not get it and we might not have this so that's why we wrote it that way. Right now I can tell you that's three or four years that we have this

next contract.

MR. SCHLESINGER: Mark is pretty much saying you've got to give us some sort of, be a little bit more specific.

MR. EDSALL: Either that or remove the word temporary so there's no expectation that it's other than it could occur continuously.

MR. VIEBROCK: That's fine, we can remove that. The original application was when Mr. Stackhouse used to get the ties in, his men would disassemble it just taking off the metal, he already has a rail spur where the rail comes in, they sort the metal and recycle it, ship it back out by rail.

MR. EDSALL: That's pretty much the entire operation, the previous approval involved materials coming in, materials going out so I would just--

MR. ROSENWASSER: It's a constant rollover of inventory, this is not a storage yard, nothing stays here, it's constantly turning over.

MR. SCHLESINGER: Okay, in regard to your current operation for which you previously got your approval which was relevant to your wood ties, any change in that operation?

MR. STACKHOUSE: No.

MR. ROSENWASSER: Nothing whatsoever, exactly, there's no change other than to add the scale, show the parking areas and the truck wash.

MR. SCHLESINGER: We'll get to those things. Tell me how the crushing operation works.

MR. STACKHOUSE: Well, we, for Metro-North we go to Beacon, we actually take the concrete railroad ties off

the rail car, put them on our flatbed trailers, haul them to the yards, unload, stockpile them and then right now the cycle seems we've been crushing them between November and April, our crushers are out in two different states, we bring them back and crush what, we have one in New York over the winter months and we sell the aggregate and take the steel, we get the steel out of the concrete ties from the crushing operation, scrap the steel and sell the aggregate.

MR. SCHLESINGER: Strictly a day operation?

MR. STACKHOUSE: Strictly day, same hours as existing.

MR. SCHLESINGER: Not weekends, noisy?

MR. STACKHOUSE: Same hours as we have existing on the site plan.

MR. ROSENWASSER: DEC monitors both dust levels and noise levels and there's been no issue at the existing site where they've been doing this for years, they have never had an issue of that.

MR. SCHLESINGER: The railroad tie operation was classified as an 813, this operation I believe is a different classification, Mark, special permit?

MR. EDSALL: Yeah, and again, we looked at this quite closely when the former application came in to define if it was processing, meaning materials coming in effectively disassembled and shipped back out but didn't rise to the level of a processing operation. This actually involves with the crusher the converting, altering or processing of products, when you say special permit use B-3, we've had other applications in this zone that were similarly reviewed. In fact, the affiliate company Argenio Construction Properties had a crushing operation and when they added that to their site with the asphalt plant that was deemed a special

permit and they went through the special permit process because it was a processing operation. So this is extremely parallel and it does fall under the B-3 special permit use.

MR. ROSENWASSER: I think and not just Argenio's but I think you have in very close proximity two or three other operations that do crush and process materials, whether it be blacktop, stumps, concrete, stone, I mean you have in very close proximity to this.

MR. EDSALL: I made the analogy for construction properties because it's the closest and most recent.

MR. SCHLESINGER: So they'll have to do whatever is required for a special permit.

MR. EDSALL: It's a site plan amendment and now a special permit.

MR. SCHLESINGER: Tell me about the truck wash area.

MR. STACKHOUSE: We want to be able to wash our trucks and kind of a lot of the stuff is a second thought but we don't want to wash the trucks and let dirt from the trucks just go anywhere. So the retention pond area is on the existing site plan and we want to be able to put a drain in here and go to an oil water separator to catch--

MR. SCHLESINGER: What do you do with the trucks that carry the wood ties, do you wash them as well?

MR. STACKHOUSE: That's the tractors, yes, that's what we're talking about.

MR. SCHLESINGER: Do you wash them now without?

MR. STACKHOUSE: I wash them every now and then but the property that I have is leased and my landlord, what

can I say, it's his property and he tells me what to do so--

MR. SCHLESINGER: You're talking about this property that we're referring to here?

MR. STACKHOUSE: No, I do not wash here, no, I have not washed there at all, no.

MR. SCHLESINGER: So you're going to be washing both trucks there, the concrete trucks the wood trucks?

MR. STACKHOUSE: Well, they're all the same.

MR. SCHLESINGER: I'm concerned about the other issue now too and how far we have to go as far as making sure that the water's not contaminating anything. Henry, you're probably familiar with this.

MR. VAN LEEUWEN: I had one where I used to work.

MR. SCHLESINGER: Mark, is there anything we need to address as far as that's concerned?

MR. EDSALL: Well, I do raise under my comments that we need to take a fresh look at the truck wash area and the discharge so that's something we do have to look at.

MR. VAN LEEUWEN: Can I ask you guys a question? Ray and Stu, you're both friends of mine, so can you get together with Argenio and crush them together?

MR. STACKHOUSE: We actually had a meeting on that and I offered him exclusive on the material and he offered to take the material but I couldn't do that cause it's my overhead that I have to pay for to keep the men working through the winter months and pay for the equipment. But I offered him the exclusive on the crushed material, it's a New York State DOT improved

material, as a matter of fact, that big interchange between 84 and 87 that contractor bought 45 tons of this material so the state's inspected it several times and, you know, the ball's in Jerry's court as far as that goes, if they're interested in purchasing the product.

MR. SCHLESINGER: Have you come to a dead stop on that negotiation?

MR. STACKHOUSE: Well, we didn't even talk about money, I just said if you want the exclusive on it I'll sell it to you and you only, and think about it and that's how we left it.

MR. SCHLESINGER: I don't think it's fair for us to try to negotiate a deal between you and Jerry or anything like that but to me--

MR. STACKHOUSE: It's up to him if he's interested.

MR. SCHLESINGER: To me, it would save everybody a lot of work, time and money and everything.

MR. STACKHOUSE: As far as crushing goes, we do have to maintain that.

MR. ROSENWASSER: So there's no misunderstanding, it's not that he's going to take in the ties and have them dumped on Mr. Argenio's, let him crush it, he has to do the crushing, it's the final product that they were discussing.

MR. STACKHOUSE: We get the metal out that pays for the overhead and the finished product which I'm sure Jerry can use, it's a question of how much can he use and I offered that to him.

MR. VAN LEEUWEN: Do you have a way of getting rid of the material once it's produced?

MR. STACKHOUSE: Yes, we have been pretty fortunate in selling it because it's a New York State DOT product this is all we crush, we don't bring in any other products, blacktop or brick or any of that nature, it's a very clean product and it sells pretty quickly.

MR. SCHLESINGER: Mark, anymore DEC permits or anything?

MR. EDSALL: Again, one of my comments was that they need to verify on the record either with something from DEC something to tell us if they need any additional permits, if they have a permit at the other site and it's one that can be relocated to this site, that's an issue we need to have on the record.

MR. STACKHOUSE: For the record, the DEC said when you move over there, tell us, we'll change the address. I said first I have to go in front of the Town Board, I'll let you know and they can change the address but I can get you that paperwork.

MR. SCHLESINGER: What was brought up about the railroad track there and everything you're trying to work out a lease.

MR. STACKHOUSE: We're leasing this portion of property from CSX to install additional rail lines, this one spur what we have is not large enough and this will help the first obvious thing it helps it keeps the trucks off the road, every rail car that we load is five truck loads and this, in this instance, it will be easier for the railroad to put more cars in at one time and take more cars out at the same time so they don't have to keep coming back and north.

MR. SCHLESINGER: If you can lease that property it's going facilitate your receiving end product, is that correct?

MR. STACKHOUSE: That's correct.

MR. SCHLESINGER: Where do you stand on that, how far are you in negotiations?

MR. STACKHOUSE: We were going to get a letter from CSC but our contacts has been on vacation until he's coming back the 6th.

MR. VIEBROCK: We have met from the engineering aspect I've met with the CSX, his name is SanGiacoma, he's one of the project design, project managers, I talked to him once a week on the design, him and I are working out the details, meeting CSX design guidelines which is this huge book that we need to do the design for in terms of the turnouts and the curvature and stuff. So everything will be approved through the CSX contact. I reached out to him after our work session with Mark and I tried to get some letter to the board, we're working on this, we're working to get a lease that way the board was comfortable that we're doing work on someone else's property essentially.

MR. SCHLESINGER: I think that I don't know what the other guys feel that may be an important issue cause there are other things that are popping up here that may cause some other issues, so I think that that may assist in transportation and trucking and things like that.

MR. ROSENWASSER: Can we just, seems like an appropriate segway to address this traffic issue, I think that's where you're going, Mr. Chairman?

MR. SCHLESINGER: I'm getting to that because it seems like the traffic issue was not instigated by what you're doing here, something that was brought up even prior to your application so something that's on the table, it's something that we have to address and it's something that I'm going to ask Mark for his input

whether we need any sort of people a little bit more knowledgeable than we are.

MR. ROSENWASSER: Before Mark chimes in and of course I just want to say one thing. When we were here for the original site plan, I don't recall any issue being raised concerning traffic number one. I think Mr. Stackhouse, how many trucks do you have, six?

MR. STACKHOUSE: Six there now but I have seven or eight at the other yard.

MR. ROSENWASSER: So he's got six trucks here. What has happened and the reason that you have this petition in all likelihood as far as I can tell these trucks leave in the morning, they come back at night. There are other trucks that come in and will drop off and pick up material but and I talked to Ray about this and you maybe have 16 trucks in and out that includes his six leaving in the morning, come back and maybe 10 others over the course of their workday. What has happened is and I think you can all understand this, Ray is in the process of moving from and moving material from his current location where he is to this location. What has happened is they have gone, they have because it's the most direct and convenient route these trucks have gone over McArthur Avenue to this site. This is not a long term or permanent situation. Now, obviously, it's disrupted people who have lived there and whatnot, they don't have to go on that, they don't have to go on McArthur Avenue and that's not the normal amount of traffic that occurs as a result of this operation whatsoever. Now, I don't, they would come off 32 down Ruscetti Drive into Argenio Drive and he's at his site. So that's what has happened since the last site plan approval to cause some concern for people. He's moving material from one site to another site but once that's done, there's no trucks going over McArthur Avenue ever at all in connection with this.

MR. VAN LEEUWEN: You guys gotta understand one thing, we're betwixt and between, we're in between the residents who vote for us, okay, and we have a problem on getting on from Ruscetti Drive to 32 we have a problem in both instances, somebody's got to help us out and show us what can be done there to alleviate that problem and I think the only way we're going to alleviate is a red light.

MR. ROSENWASSER: That may be. Obviously, Mr. Stackhouse isn't responsible for doing an off-site improvement to the intersection of Ruscetti Drive and Route 32.

MR. VAN LEEUWEN: I didn't say he was, let me say one thing but we have the problem.

MR. ROSENWASSER: My question I guess would be I assume there has not been an overall regional traffic study that studied the impact of all of this commercial development that has occurred, whether it be Tilcon, A & R or anybody else there, probably has not been so we're certainly willing to do our part to mitigate traffic that results from this site but I don't think it's particularly fair, I mean, in other words, I don't think Ray's Transportation is the straw that broke the camel's back because you don't have any base line numbers to know what the traffic problem was before we came.

MR. VAN LEEUWEN: I don't think anybody on this board thinks that way. The only thing is I want to say one thing to you what I said before we have a problem and we gotta get rid of the problem.

MR. SCHLESINGER: And I'm glad that Ray's business is successful and has grown and that you have seven trucks there that come in and out, so that's 14 and then you're taking another seven that are going in and out of the other location which is going to move here so 14

turns to 28 and you have 10 other people coming in and out then you're going to get 20 people coming in and out. So there's an increase of traffic there, we all can't deny that and fire buys grows, there will even be more of an increase in traffic but the the thinking is that we have an issue here that needs to be addressed. I'm not an expert on it, nobody on the board is an expert on it but Mark, how do we address it?

MR. EDSALL: Well, under my comment number 3, I acknowledge that I did in fact get a copy of the letter from the Supervisor to the planning board that included the citizens' petition from back in April cause that's when it dates back to is April. And the Supervisor's memo to the chairperson of the planning board was May 6 so I did get a copy of that recently and it seems to me that it is as Mr. Rosenwasser said could be a regional issue that really isn't just a narrow focus looking at just one application, you need to evaluate not only the traffic flow but the trip generations from various businesses. As you've said, it doesn't necessarily all fall on this site, there's multiple sites. So my suggestion under comment 3 is that the board consider some level of a traffic study and again, everyone has to know their limitations, I would suggest that you have a traffic consultant do that, that's something that our firm doesn't specialize in and there are several consultants that we do work with and we have helped the town out in the past and I think that would be an appropriate thing to do is to consider bringing on board a traffic consultant to look at the big picture and do just the analysis, Mr. Chairman, that you indicated. What's the potential for growth at this site and compare it to the background and what's going on and directions of travel from the other businesses and just through traffic there could be a through traffic issue so I would suggest the traffic consultant to look at this closely.

MR. SCHLESINGER: How do we address that, I mean that's

something--

MR. EDSALL: If it's something that the board wants to move forward with we can work with the board on retaining a traffic consultant that's familiar with the town. We have worked with before my preference would be John Collins Engineers, they have worked with the town on various applications in the past, gentleman Phil Greeley is one we normally deal with and then you'll have to speak with the applicant as to how those costs can be covered.

MR. SCHLESINGER: Anybody else have anything to say?

MR. VAN LEEUWEN: Well, I think guys should sit down and talk to George Green.

MR. STACKHOUSE: Can I speak?

MR. SCHLESINGER: Go ahead.

MR. STACKHOUSE: Ray's Transportation has been in the Town of New Windsor for 13 years. I think Mr. Green can attest that we have had no complaints where we are which we take pride in. This evening is the first I've heard of the complaint on McArthur strictly due to the traffic from the yard, we're leaving the yard, this new yard I can tell everybody tonight I'll reroute my trucks, we will not be on McArthur, we can run the rest of the way up Union and down 32, it was a commercial route so we took it, if it's bothering the residents there we will not go on the road, I can tell everyone that.

MR. ROSENWASSER: It would have helped to have known in April it would have stopped then.

MR. SCHLESINGER: It's an issue that is before us, we're here to address and to hear what the public has to say and we have to respond to it, you do, and I

think it's something that maybe Hank's suggestion about getting together with Mark and Supervisor Green and see how we can go ahead and address it. But it's something that's just not an insignificant issue, it's something we're going to have to address.

MR. VAN LEEUWEN: If we have to have a public hearing on this, this place is going to be packed.

MR. STACKHOUSE: We can reroute the trucks so the town will not get any phone calls. We weren't aware of it. There's one other comment I'd like to make. This was the old Stevenson Lumber site, they had 25 trucks plus in their heyday that went in and out three and four times a day. We're not reaching those levels of what they did back then, just so everybody knows.

MR. VAN LEEUWEN: But I've seen a lot of accidents there.

MR. STACKHOUSE: I understand what you're saying but our traffic is not even what it was.

MR. SCHLESINGER: But there's got to be something that instigated this.

MR. ROSENWASSER: Well, but in all fairness, I don't want to repeat myself but I will, I'm going to because it bears repeating, this is a problem that occurred unbeknownst to us that was 100 percent avoidable had his trucks taken the other route and not gone over McArthur, you would not have a petition, no one would have called the Supervisor and we wouldn't be having this discussion had he known it would have stopped three months ago. So there will be no problem on McArthur Avenue.

MR. SCHLESINGER: We're not having a public hearing tonight, we're not finalizing how we're going to address it. If you think that you can alleviate the

problem now then do whatever you have to do now.

MR. STACKHOUSE: One hundred percent no problem.

MR. SCHLESINGER: Then you have the opportunity to turn around the people and say how's it been the last three months, if you can eliminate the problem great, go for it.

MR. STACKHOUSE: Probably the easiest thing I had to do today.

MR. VAN LEEUWEN: I think the best thing you can do is go sit down, talk to George Green, have Mark there, if you want me there let me know, I'll be there, no problem, but we have to come up with a solution if we didn't have the petition we would be thinking completely different.

MR. ROSENWASSER: As long as this is a solution that you're looking for that impacts not just Ray's Transportation but cumulatively all of the traffic that's generated by all of the recent approvals and commercial establishments.

MR. GABA: One of the things that you're going to have to look at on this when you do your SEQRA review is not only the new elements that are being added to the site plan but the cumulative effect of the entire project, otherwise I think you're looking at segmentation and I think it's pretty much a ground ball that you're going to have to put some sort of traffic study in to satisfy your SEQRA responsibilities.

MR. ROSENWASSER: Well, I'm sure we can do a supplement to the long form regarding the impacts of his but you're not saying--

MR. GABA: That's exactly what I'm talking about.

MR. ROSENWASSER: Regarding the impacts of his operation but I don't think it's--

MR. GABA: I think Part 3 and I think that it should have a traffic study of some kind, how detailed it's going to be is up to you guys but I don't see a way around that.

MR. SCHLESINGER: Are you addressing the segmentation issue at this time?

MR. EDSALL: Getting back one of the issues that Steve and I just had the opportunity to go over during the course of tonight very briefly in our review of the application and a discussion in our office there was a little bit of a concern as to what are, what do we look at, we've got the issue where there's some existing storm water facilities but the use is being somewhat changed. We've got traffic that's changed, we've got a petition that now raises an issue regarding traffic and one of the concerns that we had that we candidly threw the, lateralled the ball to the attorneys was relative to SEQRA given the fact that we have an application that's quite fresh that was just approved six months ago, how do we deal with the SEQRA issue of what do we look at, do we turn a blind eye to what's been approved six months ago and just look at what's happening or proposed now. Is that segmentation? How do you deal with this? So candidly under comment 4 we raised the issue and tossed the hand grenade to counsel as to how to deal with that so at that I'll let Steve since we talked briefly speak.

MR. GABA: It's not as scary as it sounds by any stretch of the imagination, you have a base line if you will of what the potential environmental impacts of this project is and you've looked at it and made a negative determination on it now they want to add a few elements more to the site. It would be especially given the close proximity between this application and

the prior application I think erroneous to just disregard all of what's going on there now and the environmental impacts of it and just look at the concrete crushing and the truck wash and new items. I think what you should do is look at what you've done in the past environmental review that you conduct the first time around and now graft on to it the few additional items that they're adding. Probably, probably that's not going to be all that different as far as the conclusions you reach if you just looked at the concrete crushing and the truck wash and any new items but in terms of doing your review for traffic is a good example you're going to look at everything, concrete crushing probably isn't going to bring in that many new trucks but the overall impact with the creosote ties and everything is going to bring in quite a few trucks, you look at everything, you just don't look at the new things that are being added.

MR. ROSENWASSER: Well, we're certainly willing to evaluate now the overall cumulative effect of all of the improvements including the prior improvements which we anticipate for the site including what we have here but there's nothing more that we're adding to this site that would in any way impact that which has already been approved, particularly creosote issue, just there's no conceivable way in my mind that the creosote issue rears its head again on the concrete crushing operation.

MR. GABA: But now you're washing off trucks which have been hauling creosote so it's not the same thing as looking at it separately, that's probably been put to bed but it may bleed over a little bit into the SEQRA review that would be required for the additional things you're proposing like for example the truck washing.

MR. ROSENWASSER: The one thing what I don't want to get into is an entire regional traffic study here, number one, we don't think we're overall in any

significant way increasing the traffic on Route 32 other than what it already is.

MR. GABA: And your traffic study should bear that out.

MR. ROSENWASSER: If there's a problem there it's a problem that pre-existed Ray's Transportation moving to this site. I don't know how many prior traffic studies have been done regarding whether it's Tilcon or A & R or anybody else.

MR. EDSALL: Again, one of the difficulties with a traffic study is that if you're going to say your impacts are minor, you have to compare it to volumes so there maybe traffic counts that need to be done.

MR. ROSENWASSER: We don't have any base line counts.

MR. EDSALL: There might be data from Orange County and from DOT because you've got a lot of state and county highways adjacent to the connector roads but again that's what a traffic consultant, that's why I'm deferring to a specialist.

MR. VIEBROCK: That's what we'll perform the traffic study then you can have John Collins review it.

MR. EDSALL: If that's acceptable to the board then why don't you, Mr. Chairman, what they're proposing is that they prepare the traffic study and have a consultant hired by the planning board review it. I have no problem with that recommending the board accept that but I do think that before they get into performing the work they should generate something to explain the scope of what they're preparing to undertake so it can be evaluated if there's any additional work we believe is appropriate we can say something in advance.

MR. SCHLESINGER: Well, I think, listen, there's got to be some sort of study made as far as the traffic is

concerned, if you people are willing to take a step forward in the direction that's great. As far as what Mark said, I think we just have to have an understanding of how far you're going to go and whether it's acceptable to Mark whether it's acceptable to us.

MR. ROSENWASSER: That's certainly appropriate.

MR. SCHLESINGER: I think that that's being fair to you and we can present something to the public when the time comes and both have two feet to stand on.

MR. ROSENWASSER: Well, certainly you can prepare the scope.

MR. VIEBROCK: We can prepare a scope, circulate it around and see if it's acceptable at that time, if the scope gets that large though because we're obviously only going to prepare the scope as far as our client, not the whole town.

MR. SCHLESINGER: No, we don't want to be unreasonable but we want you to be reasonable.

MR. VIEBROCK: I assume that the major point is Ruscetti and 32.

MR. VAN LEEUWEN: That's the area we're looking at.

MR. EDSALL: Why don't we leave it to the traffic consultants to come back and make a recommendation rather than invent the scope tonight.

MR. SCHLESINGER: What action can we take tonight?

MR. EDSALL: Procedurally, there's two other.

MR. ROSENWASSER: This McArthur Avenue is a red herring thing if we're not using it as a route of egress or ingress from our site.

MR. VAN LEEUWEN: Maybe then we can look at it from a different viewpoint.

MR. ROSENWASSER: We're using it because we didn't know there was anyone complaining about it, as of today, it will not be used.

MR. SCHLESINGER: Let's put that issue to rest, let's come up with a scope of evaluation and we'll determine it from there. Mark, action?

MR. EDSALL: There's two other issues which we need to move forward on are number one because this is within 500 foot of Route 32, just a reminder we do need to send this to Orange County Planning, we're not ready at this point, I'm just noting so they're aware to my understanding it's within 500 foot of the intermunicipal boundary of the City of Newburgh, unless somebody measures it different than me, we have to make sure we don't forget the new requirements for a referral to the city under 239 (n)(n) which we'll take care of but if I'm missing anything just please let me know.

MR. VIEBROCK: I'll check that.

MR. EDSALL: Doublecheck it, other than that, there's really no action that can be done tonight.

MR. SCHLESINGER: Lead agency I did.

MR. EDSALL: One of the things that we'll have counsel look at what's been submitted so far so we can decide whether when we want to circulate for lead agency we've got DEC who's an involved agency, Orange County Planning never takes lead agency so to my understanding, it's only DEC.

MR. ROSENWASSER: He's got a long history with DEC in

his operation.

MR. EDSALL: I expect they're not going to want lead agency, we'll circulate that if acceptable once counsel tells me we're comfortable.

MR. SCHLESINGER: That's all we can do tonight and everybody's got homework to do.

MR. EDSALL: That's all you can do.

MR. SCHLESINGER: Gentlemen, thank you very much.

MR. VIEBROCK: I assume we'll just come into the next work session, Mark?

MR. EDSALL: Yeah, we should have some answers by then. I would ask that you as soon as you get a proposed scope to go forward it over to keep that ball rolling for the traffic.

MR. SCHLESINGER: Thank you very much. Motion to adjourn?

MR. GALLAGHER: So moved.

MR. BROWN: Second it.

ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE

June 30, 2010

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MR. ARGENIO

AYE

Respectfully Submitted By:

Frances Roth
Stenographer

